

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN GAY ANN MASOLO**, on March 14, 2001 at 3:08 P.M., in Room 137B Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Gay Ann Masolo, Chairman (R)  
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)  
Rep. Bob Lawson, Vice Chairman (R)  
Rep. Joan Andersen (R)  
Rep. Norma Bixby (D)  
Rep. Gary Branae (D)  
Rep. Nancy Fritz (D)  
Rep. Verdell Jackson (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Lehman (R)  
Rep. Jeff Mangan (D)  
Rep. Joe McKenney (R)  
Rep. John Musgrove (D)  
Rep. Alan Olson (R)  
Rep. Ken Peterson (R)  
Rep. Butch Waddill (R)  
Rep. Allan Walters (R)  
Rep. Merlin Wolery (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Nina Roatch, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 423, 3/5/2001; SB 430,  
3/5/2001; SB 436, 3/5/2001;  
HJ 35, 3/8/2001

Executive Action: None

**HEARING ON HJ 35****Sponsor:** REPRESENTATIVE CHRISTOPHER HARRIS, HD 30, Bozeman**Proponents:** Joyce A. Scott, OCHE**Opponents:** None**Opening Statement by Sponsor:**

REPRESENTATIVE CHRIS HARRIS, HD 30, Bozeman, said he planned to model the study after one done in the state of Washington, but he looked at it and it was quite complex. It involved too much bureaucracy and was too complicated for the state of Montana. It is a worthwhile idea. Parents of children who are destined for college will be able to freeze the tuition at the present level, regardless of inflation or tuition increases. The parents will make a payment to the university with the guarantee that tuition will not increase for the child regardless of what the tuition cost is fifteen years from now. It is a benefit for the parents and the children and for the university system and the Montana state taxpayers. The state will have the use of the money for whatever period of time between payment and time the child goes to college. It works in the state of Montana. He isn't sure that the statute in Washington would work in Montana because of the smaller population. One of the issues he believes is worth examining is whether the parents, when they make the investment, should the child not go to school in Montana and they want their money back, should the parent be entitled to any interest? If they get their money back and no interest, that is an issue for the study group to deal with. He has outlined in the bill the parameters of what a program would look like. It is merely a suggestion.

**Proponents' Testimony:**

Dustin Stewart, Montana State University-Bozeman, MAU-COT, Great Falls, and the University of Montana Tech, said the bill is a great idea that could potentially help students. Tuition in 1972 was \$1,077. If he could have prepaid tuition at that rate, he wouldn't be paying the present tuition which is over \$3,000.

Joyce Scott, Deputy Commissioner to the Office of the Chancellor of Higher Education, said in public higher education around the country there are usually one of two options of allowing families to save and prepare for sending children to post-secondary institutions. One of them is a Family's Education Savings Program. It is in effect. About 20 or 25 states have developed

a program of prepaid tuition. This is deserving of a thorough study and investigation. They do alert the committee that the guarantee matter is an issue. They did not anticipate in 1992 that tuition would have increased 102% in less than a decade. There are a lot of factors operating to raise tuition in Montana, not the least of which is the need of the university to finance itself, pay for the employee payments and improvements. Her office is in support of the resolution and thinks that a study would be beneficial in working some of the details out that the **SPONSOR** was careful enough to identify as problematic as compared to other states.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REPRESENTATIVE PETERSON** asked the **SPONSOR** to give him some idea about the mechanics of the program. The **SPONSOR** said there would be an account administered within the university system that would keep track of all the money that would be coming in. A parent of a five year old might want to pay two years of the child's tuition. The money would be credited to their account and it would be invested. The money would grow because of the investment and by the time the child reaches college age, the two years of tuition would be paid at the tuition level of when the child was five. Meanwhile the university system has been gathering the interest on the investment. It is a balancing act to see that the actual tuition costs don't go up more than what the university system can gather in investments. Looking at the experience of other states, the study group can avoid their mistakes and take advantage of the programs that do work.

**REPRESENTATIVE PETERSON** asked if there would be any kind of limitation on the amount of money to be invested if a family had three or four kids and the parents want to pay for all four years. The **REPRESENTATIVE HARRIS** said he had not thought of the post-graduate fees. He doesn't feel there needs to be a limitation on the program. It can't be a losing proposition for the university system. On that theory, the system would want to get as many investments as possible.

**REPRESENTATIVE ANDERSEN** asked **REPRESENTATIVE HARRIS** if the money paid into the account would start drawing interest and the interest would go to the university system. The **REPRESENTATIVE HARRIS** said that is an issue worth looking at, because for the family that ends up not having a student in the system, would there be an incentive like a share of the interest if they withdraw their funds. In Washington, the program simply allows the parent to withdraw at any time, but there is no interest paid on the money. The university system has had the use of the money

for the time they had it. **REPRESENTATIVE ANDERSEN** asked if the university system can use the interest all the time it is being accrued or would it be at the time the student would normally start college. The **REPRESENTATIVE HARRIS** said it is an excellent question and depends on how it is set up. He thinks the way to do that is, look at the best investment that can be made with the money. Accumulated interest is probably the best way to go, but he would not prejudge that reasoning. **REPRESENTATIVE ANDERSEN** asked him if he is aware of any states that do have a tax credit or a deduction for making this gift to one's child. The **REPRESENTATIVE HARRIS** said he doesn't know what the other state programs do on that issue. **Dr. Scott** said it would have to be of the matters of the study. She is not fully familiar with the variety of programs among the states.

**REPRESENTATIVE WALTERS** asked **REPRESENTATIVE HARRIS** if Montana has a tax-free college savings account at present. The **SPONSOR** said that the state does. This is an entirely different program. **REPRESENTATIVE WALTERS** asked to know what the advantages of each program are. The **SPONSOR** said he does not have the expertise to explain the programs. **SENATOR BOHLINGER** was asked to explain because he had had a bill in the previous legislature, similar to this resolution. He said his bill came about in the 1997 session and it allowed family members to set aside up to \$3,000 a year for family members' continuing education. They could take a tax deduction for their contribution. The monies would accumulate, tax free and at the time when the student went to school, to any kind of post secondary education, it would allow the student to draw down the monies from the monies that had been growing. Hopefully it would be a way of offsetting the cost of providing for children's education.

**REPRESENTATIVE ANDERSEN** said she had listened to **SENATOR BOHLINGER**'s bill that he presented in taxation the other day and asked if it was correct that he is looking to ask that the money in savings accounts can be used for room and board? **SENATOR BOHLINGER** said that is true. He said the 1997 bill is being amended with current pending legislation that will allow for the inclusion in expenses of room and board costs. That bill will also allow money to be invested in equities. The bill, in its present form, only allows for monies to be placed in savings accounts and it only allows money to pay for tuition.

**REPRESENTATIVE WADDILL** said that as he understands it, family members can contribute, but it makes no provision for a student to contribute. He asked **SENATOR BOHLINGER** if that was correct. The **SENATOR** said that a family member could contribute to the account. That doesn't mean that a student himself couldn't initiate the account. Most students don't have the means to do

that. There is over seventeen million dollars on deposit for Montana children to go to school anywhere the child wants to go. He does not have to go in state.

**REPRESENTATIVE WADDILL** ask if he would be in favor of an amendment that would allow a student or prospective student to contribute to a college fund. **SENATOR BOHLINGER** said his preference would be to see the resolution move through the process in its present form. Amendments slow down the process.

**REPRESENTATIVE MCKENNEY** had a question for the **SPONSOR**. As he looks at the resolution, where it says that a post secondary degree or a certificate is necessary for students to find work that will provide a living wage. He doesn't believe the wording is accurate. There are other lines of work on the market that, quite frankly, provide a good wage and a good way of life. He is wondering about an amendment that would strike "necessary" and insert the word "advantageous." The **SPONSOR** said that would be a very friendly amendment.

**REPRESENTATIVE JACKSON** asked the **SPONSOR** about wording in the resolution. The primary advantage of this resolution is to lock in the lower tuition, is that correct? The **SPONSOR** said yes. He said the study committee will look at the wording critically. The Education Committee can certainly give it parameters, but they might not be necessary.

**Closing by Sponsor:**

**REPRESENTATIVE CHRIS HARRIS** said the key difference between the two funds is that **SENATOR BOHLINGER's** fund is a great assistance to the student and the family by providing the mechanism for a tax-free funding. His resolution would help the university system because they would have the money to invest and take advantage of the revenue and help with educational funding the state is facing. He urged the committee to launch the study.

**HEARING ON SB 423**

**Sponsor:** **SENATOR ALVIN ELLIS, SD 12, Red Lodge**

**Proponents:** **Jim Hartung, C-T Task Force**  
**Rodney Garcia, Billings, SSNTF**

**Opponents:** None

**Informational:** **Lance Melton, MSBA**

**Opening Statement by Sponsor:**

**SENATOR ALVIN ELLIS, JR., SD 12, Red Lodge,** stated the bill addresses a problem that some larger school districts in Montana might have and according to some of the people in Billings the situation exists now. Currently we have in law a way for trustees to formulate their districts so that there are single member districts, just like the county commissioners each have to represent a district in the county and if they are not currently doing that. He would suggest the trustees are about as likely to do that as the legislatures are to enforce term limits on themselves. As a result of that situation, certain areas of Billings haven't had representation on the school board for quite some time. That is the purpose of the bill. It uses the same procedure, but puts it in the hands of the people. They have to take a petition to the people, setting up just as the board would, equally populated districts, they are relatively small in size, present the idea along with order succession, that is how each member would take over for a member that is currently sitting on the board. They have to get the signatures of 10% of the people. The board must present it to the people at the next school election and, if it passes, then the plan must be followed.

**Proponents:**

**SENATOR JOHN BOHLINGER, SD 7, Billings,** said there was a period of time when legislative candidates were chosen from at large. At one time Yellowstone County brought forward ten legislative candidates, all of whom lived in the northwest part of town. The 1972 Constitution thought there was a flaw in the way candidates were selected using an at-large formula. They prescribed for single member districts. Without single member districts, today, Yellowstone County has nineteen house members and nine Senate members. Without single member districts, it is quite conceivable that these twenty-eight people would all live on the northwest side of Billings. They would represent the various monied people of the community and those with less money would have no voice in the government process. That is wrong. Our constitution has made that discovery and placed strong words that prohibit it from happening. Presently school board members are chosen from an at-large election and those people who live in south Billings have no voice in the management of school boards. The bill will provide for an opportunity for the people in those areas to have a voice in the management of school policy.

**Rodney Garcia, Billings,** said he is a chairman of the organization called South Side Neighborhood Task Force in Billings. They are active when it comes to working for equal

opportunities for all the people. In 1999, chairmen for the six task forces wrote a letter to the trustees. It said, "We the chairmen of the neighborhood task forces of the city of Billings, strongly support and urge the Board of Trustees to enact single member districts. We offer any assistance that the Board of Trustees may need in forming single member districts for equal representation." They have no voice and have tried to run people from the lower income neighborhoods for the trustee positions. When they made their request to the school board, the board came to the task force and said if they wanted equal representation they could sue the board. The task force said that was a possibility. A suit would cost approximately \$500,000 and they don't have that kind of money. It is cheaper to come to the legislature and ask it to bring school district in compliance with the constitution of the state of Montana. The legislature would be saving approximately \$497,000 for the taxpayers. He is going to ask his organization to support a recall petition because their school board has no vision, no plan and they are incompetent.

**Jim Hartung, C-T Task Force, Billings,** said he is also a chairman of a community task force in Billings. The center of his task force is Broadwater School. It was built in 1901. In the last year it has been listed as an endangered historical school. Twice in the past ten years it has been threatened with closure because of shortfalls in school funding. Schools in the older part of towns are the ones that are threatened with closure and they haven't felt that they have had a good voice on the school board. They feel neighborhood schools are important in terms of their property values and in terms of having schools the children can work to. The seven present members of the elementary district #2 are elected at large. He passed around a map of Billings for the committee to see. It shows that the school board members all live in the northwest area of Billings. It also showed where the elementary schools were located. In the Heights where there is about 28% of the population and six schools, they have no school board members. On the south side of Billings, which is where most the minorities and lower income families live, there are four schools and no school member boards to represent them. With single member districts, all parts of Billings could be represented. The process won't be easy. The bill requires that the school board member elected by this process must live in the district he represents.

**Opponents' Testimony:** None

**Informational:**

**Lance Melton, MSBA**, said he would want the committee to know that school districts are between a rock and a hard place under the existing law. Current law says you are an at-large district unless you are a single member district because you are striving to comply with a federal law and voting rights. Every time a school district is approached with this proposal to go to single member districts, the question is, can they do it without being sued on one side or the other. School boards do not have an easy job in resolving this kind of question.

**Questions from Committee Members and Responses:**

**REPRESENTATIVE LEHMAN** had a question for the **SPONSOR**. If this bill was to be drafted into law, it would affect every school district in Montana, is that correct? The **SPONSOR** said it would, if the situation that is in Billings exists elsewhere. It would be an option for every district in the state. **REPRESENTATIVE LEHMAN** asked the **SPONSOR** where the figure of 10% originate? The **SPONSOR** said that the Senate staffer came up with the figure. It comes off other petitions that are statewide petitions in nature.

**REPRESENTATIVE LEHMAN** followed up with a question for **Mr. Melton**. It seems to the Representative that what he has heard over the past few years, is that there is a shortage of candidates for trustees. He asked him to comment on that. **Mr. Melton** said he is aware of the 10% petition happens to be throughout Title 20. Yes, they do have a hard time recruiting people to run for school boards in many communities. That is reflected in what the legislature did last session and what they will find in **HB 90** in this session. **REPRESENTATIVE LEHMAN** asked him if he would say this is a question more for schools in the larger urban areas? **Mr. Melton** said he would not characterize it that way. Recently small schools have faced this problem under existing law.

**REPRESENTATIVE JACKSON** had a question for **Mr. Garcia**. He asked **Mr. Garcia** to give an example of these particular issues and how they have tried to work with the board. He said that the school board meets at approximately at 5:30 on Monday night. They have attended the meetings and told them they are concerned about the closure of schools in their neighborhoods due to lack of a voice on the school board. They communicate at the meeting and on the phone. Their voice is not heard. There is no problem in his neighborhood finding people to run for the school board.



**REPRESENTATIVE GALVIN-HALCRO** told the **SPONSOR** she reads it as permissive legislation when she reads line 28. Is she mistaken? The **SPONSOR** said the wording refers to current law. Currently trustees, as he outlined in the beginning of his testimony, can do this. She says that **Mr. Hartung** had said that the representative will have to live in the district, if this was to go to single districts. She doesn't see that in this bill. Is she missing that language? **REPRESENTATIVE LAWSON** found it for her. She had further questions. That requirement is not true in the legislature representation at present. Why would he make that change? The **SPONSOR** said that depends on the legislative district. If a person represents multiple counties, he has to live in the district. If a person is representing part of a county you may live in a part of the county that is not your district. **REPRESENTATIVE GALVIN-HALCRO** said that one does not have to live in the specific district he represents, is that correct? The **SPONSOR** said he has to live in his district and **REPRESENTATIVE JOAN ANDERSEN** has to live in her district. This legislation would not force that to happen unless the people voted for it to be so.

**REPRESENTATIVE GALVIN-HALCRO** had a question for **Mr. Melton**. She said he had made reference to Ronan and what they had done to handle the program. She wanted to know how it had worked without this legislation. **Mr. Melton** said that is the catch-22 in present law. It says that you have at-large members, unless you create single member districts in order to comply with the Federal Voting Rights Act. Every single time this issue comes up under present law, it is about agitations about under-representation, racial issues, etc. It is a difficult process under present law. It almost insists that the district undergo legal expenses to either defend or decide to defend the issue. Ronan initially fought it and then looked at it and decided they couldn't win under federal law. They settled. The settlement was to create single members districts and law provides that. The existing law is an invitation to a law suit.

**REPRESENTATIVE WADDILL** asked **Mr. Melton** to elaborate on who establishes the district and parameters of the boundaries. **Mr. Melton** said that under existing law it is completely subject to the trustees either doing it of their own volition when asked, or the district gets sued and it is decided in district court or settled with the people who sued.

**REPRESENTATIVE OLSON** asked **Mr. Melton** if this could be considered strictly a local control type issue. **Mr. Melton** said it certainly is.

**REPRESENTATIVE LEHMAN** also had a question for **Mr. Melton**. Who sets the geographic boundaries for the districts?

{Tape : 1; Side : B}

**Mr. Melton** said it is a matter of negotiation. The trustees set it, or they are forced to set it by court action. The geographic boundaries within the area are left to local control.

**Closing by Sponsor:**

**SENATOR ALVIN ELLIS, JR.**, stated that there are numerous task forces in Billings and they heard testimony in the Senate about the areas of Billings who have not had representation on the school board for some time. Some of those areas are growing. Some of the schools in Montana are large government.

**REPRESENTATIVE ANDERSEN** assumed the duties of the **Chair**.

**HEARING ON SB 430**

**Sponsor:** **SENATOR ALVIN ELLIS, JR., SD 12, Red Lodge**

**Proponents:** **Mike Barret, Poet and Artist**  
**Lance Melton, MSBA**

**Opponents:** **Kay Glueckert**  
**Erik Burke, MEA-MFT**

**Informational:** **BJ Granbery, OPI**

**Opening Statement by Sponsor:**

**SENATOR ALVIN ELLIS, JR., SD 12, Red Lodge** said his bill is about accountability. The bill was inspired by a book from Kennewick, Washington. The people of Kennewick, a school administrator, a PTA member, and a teacher wrote the book and Kennewick has followed the program. It was not a law passed. They had fourth grade test assessments just like Montana has. They developed more rigorous assessments and covered a broader area than his bill does. For the first three years of formal education the youngsters primary endeavor is learning to read. After that period of time they read to learn. Their reading achievement still climbs, but nearly at the rate that it does in K-3. He believes that in some of our larger schools, not all of them, are afflicted to the same degrees. A large number of the people who

drop out in high school become disenchanted with school because at an early age they did not learn to read and, as they progress through the school system, they are underachievers because they can't keep up. They become problems to the school system and to society. He passed out material from President Bush's proposal for revising the educational program. He has highlighted the portions that have to do with reading. In Texas they have followed an accountability program and it has raised the achievement level of all the students in their system, but especially the Hispanic and colored population. There are schools in Montana that are using some of the types of tests that he proposing. Bozeman is using the degrees in reading power. The idea is to make sure that all children learn to read. He sees education as a pyramid of blocks that a child builds on a table and you invert it. We have a system in Montana where we test children in the 4<sup>th</sup>, 8<sup>th</sup> and 11<sup>th</sup> grades. He believes that the 4<sup>th</sup> grade is too late. Montana has developed some accreditation standards that are ambiguous and almost tragic as far as layman looking at them. Montana spent nine hundred thousand dollars developing those standards and another half a million dollars working on assessments and familiarizing teachers with them. There is going to be a lot more spent in this area and he submits that the state could have gotten better standards for nothing and spent the money familiarizing our teachers to teach. The fiscal note says that it is going to cost \$30,000 to develop an assessment that is classroom based. He provided several that he knows have been used. We don't have to re-invent the wheel. We need to choose between a number of options. These assessments are all criteria-based assessments. After looking at what the child did on the test, they can assess what level the child reads at. You cannot tell that from the Iowa Basic Test. What they tell you is how the child compares with their peers nation or statewide. With those scores, a parent doesn't know the grade level the child can read at. The fiscal note, in assumption number four, says that teachers would need to be trained to administer the tests. Teachers in Montana are already administering these test in some of our districts. In assumption six it says that OPI will need a reading specialist at grade 16, \$48,467. He has a problem thinking that specialist is necessary. **EXHIBIT (edh58a01)**

**Proponents' Testimony:**

**SENATOR BOB KEENAN, SD 38**, stated that he originally was going to carry the bill. A number of legislators showed an interest in the bill. **SENATOR ELLIS** agreed to carry the bill. What got his attention was the debate on the Senate floor after the bill had come out of committee. He would encourage the committee to pass the bill to the floor and listen to the debate. He cannot

imagine how anyone would be against it, but was stunned to listen to the debate on the Senate floor where it appeared to be a threat to K-12 educational community. If the fiscal note is accurate, **REPRESENTATIVE VICK** will give it his attention. Fiscal notes are written to promote or kill bills. This fiscal note is written to discourage passage of this bill. He wonders what kind of fiscal note the accreditation standards would promote, if one was to be written. What is the cost? This bill could possibly be a vehicle for federal funding which appears to be close to getting in the pipeline.

**Lance Melton, MSBA**, said they opposed the bill in the Senate because it had lots of obligations. True to his word, the **SPONSOR** did amend the bill to include fiscal impact. They have grave concerns about the fiscal note says. They don't believe it has been updated recently. There are assumptions in the bill that one can use a norm reference test for part of the process when the bill says it will use a criteria referenced test. Missoula School District has told him that it costs \$7.50 a child to do this testing. He would urge the committee to give the bill some consideration. With the information that he gets from OPI, Montana 4<sup>th</sup> graders are a norm reference test and scoring second in the nation. Seventy-five percent of them are at or above proficiency. This bill sets the goal of 90%. He doesn't know if that can be achieved on a shoe-string budget.

**Mike Barrett** said he is a poet and an extensive letter writer.

**Opponents' Testimony:**

**Kate Glueckert** submitted written testimony. **EXHIBIT (edh58a02)**

**Wayne Buchanan, BPE**, said it was with considerable reluctance that his office opposes the bill. He believes the bill does a lot of good things. He believes the **SPONSOR** is on the right track in the kinds of things he has put in the bill. One of the things that has been changed in the bill, that he believes is a good thing, is what the former witness talked about. That would be the confusion between a norm reference test and a criterion referenced test. Norm reference tests require other skills other than those the tests purports to test. This is a change in the bill that is good. There are a number of things in the bill that he would have applauded when he was an English teacher. He does believe it is a principle that brings him to opposition of the bill. It is not a good idea to try to have the legislature exercise general supervision over the schools every two years from Helena. He believes the direction that has been moved in academic standards does some of what this bill would do already. The norm reference tests do have grade level scores for reading.

The Iowa Test for Basic Skills will give the grade level on a national level. It is not a good idea for the legislature to usurp the power and authority of the board of public education. He would like to see **SENATOR ELLIS** bring this idea to BPE as a proposal or a resolution. That would be a more appropriate vehicle.

**Erik Burke, MEA-MFT**, said reading is fundamental. Reading is the core of education and we need to ensure that our children are learning how to read in school. It is an obligation of our educators to ensure that reading takes place and they feel that obligation on a daily basis. They are not confident that having the test to simply tell educators if they are doing it or not is going to change what is done in the classrooms on a daily basis. Testing has a place in schools. They are used as diagnostic tools all the time at a local level. At the state level they are now adopting a statewide norm reference exam and there are accountability concerns that testing can help the system with. Testing cannot be the only tool by which we judge how our schools, how our teachers, or how our communities are doing at raising and educating the children. That is his organization's greatest concern with the bill. He believe BPE has the authority this bill is seeking. The fiscal note troubles him. He has looked into the cost of testing programs and feels the note is accurate. They do not accept the \$1 per student, it is not accurate. Teachers, as professional, are responsible for teaching the children to read and this should stay at the local level in terms of ensuring that it happens.

**Informational:**

**BJ Granbery, OPI**, said she provided the informational materials to the **SPONSOR**. She informed the committee and the **SPONSOR** that the fiscal note has been updated and they do not have a copy of it. An erroneous reference to norm testing has been dropped. That was note #7. The figures were updated so that the technical notes read differently. Again, the norm reference test was dropped and the total of the biennium impact was revised to read \$158,934. OPI does support the spirit of the bill and bill's emphasis of reading as the priority in elementary education and the bill's call for accountability that will come with better assessment and public reporting. However, the law as proposed is somewhat prescriptive and technology restrictive in ways that might ultimately interfere with OPI's ability to implement President Bush's initiatives, which are very much on a fast track. His initiatives are in reading and contain assessment requirements in grades 3-8. Retaining the authority of the BPE in Montana on matters pertaining to standards and assessments will allow the board and OPI the flexibility that will be necessary

for them to aggressively to pursue these national initiatives and attain the goals that are contained in the **SPONSOR's** bill. They note in the field of assessment, multiple measures, not a single measure of achievement is desirable. Some of the technical problems that they have noted have to do with the term "grade level equivalence" as the only score whereas a more board term for "grade level score" could give them some flexibility on how to report that out. There are mentions of excluding students in bilingual programs that could be problematic. There is no mention of how students with disabilities will be included, which must be done, or provide an alternative for them. Not one single test is prescribed, but perhaps a variety of tests can be used. They would have to work out how the reporting would be comparable so a statewide picture would be fair.

**Questions from Committee Members and Responses:**

**REPRESENTATIVE OLSON** asked the **SPONSOR** what are the consequences if 90% of the students don't reach the goal presented in the bill? The **SPONSOR** said the bill is not meant to be punitive. The biggest motivator in the bill is the parents who participate and he will acknowledge that they all don't. **REPRESENTATIVE OLSON** said the 90% is a goal? The **SPONSOR** said yes.

**REPRESENTATIVE JACKSON** had a question for **Ms. Granbery**. He doesn't remember seeing any standards from OPI for reading. He asked that she fill the committee in on them. **Ms. Granbery** said the standards in reading were the first set of standards completed in Montana. A broad base of educators from around the state were brought together to discuss what is it that we need students to know and be able to do in the area of reading K-12. To write those standards for each grade level seemed a very monumental task. To narrow it down to three grade levels that serve a checkpoint, grade 4, grade, 8 and upon graduation was a much more doable task and provided enough articulation to say by the end of each of those levels here is what we want and believe the students should be able to do. From there it is up to local school districts to move their articulation downward. At the 4<sup>th</sup> grade level they can look down and write the expectations for kindergarten, 1<sup>st</sup> grade, 2<sup>nd</sup> grade and 3<sup>rd</sup> grade in order to reach the goals at grade 4. Some have accused Montana standards as not being too well articulated. That is not true because they set forth a vision for what a well educated student would be able to do and know in each area. Those are the content standards. There are just four or five at each grade levels. Beyond that there are performance standards that take it further. The performance standards tell you how well the student must perform a certain task to be considered proficient. One of the things about the testing that they need to be aware of is, instead of

always talking about a grade level, they need to know if the student is proficient in reading for the grade or point in time at which they are being tested. **REPRESENTATIVE JACKSON** said that he remembers the Iowa test to be skills, it is norm referenced and it is a multiple choice type test and he doesn't believe it goes below 3<sup>rd</sup> or 4<sup>th</sup> grade level, because the student has to be a good reader to do the test. Is that correct? **Ms. Granbery** said the tests are available at lower grade levels but there is much criticism about the validity of giving a paper pencil test below 3<sup>rd</sup> grade. What is more recommended is something in the nature of more performances that the student can demonstrate what he can do and where they are more individually administered. They are available but not being utilized in Montana. **REPRESENTATIVE JACKSON** said, in using the criterion reference test, he has seen kids tested and it is by performance, so that would not be comparable from one student to another or one school to another, but it does very quickly tell you whether the kid can read or not. He is wondering if one could collect the data from school to school. What would be the next step? He would like to see kids tested at the end of first grade and not wait until 3<sup>rd</sup> or 4<sup>th</sup>. **Ms. Granbery** said the bill also requires classroom assessment at 1<sup>st</sup> and 2<sup>nd</sup> grades. It is very important to catch problems in reading before the 3<sup>rd</sup> grade. They have no statewide rule on achievements of 1<sup>st</sup> graders. OPI does recommend standards need to be implemented in the classrooms and learning from them how to change instruction for the student. **REPRESENTATIVE JACKSON** said the reason he trying to get at this subject is he has been an administrator in a private school and when you get students at the lower grades, the first thing they did was test them to see if they could read and many of them could not read. His only option in private school was to put them back in the first grade. It is hard to do. He is wondering what's being done statewide to prevent the problem of not being able to read in the 2<sup>nd</sup> and 3<sup>rd</sup> grade. **Ms. Granbery** said the point of the **SPONSOR's** bill is that the 3<sup>rd</sup> grade can be a checkpoint for reading and then corrective action can be taken. The question asked is being handled at the local level and is for local decision making. It is different from district to district.

**REPRESENTATIVE JACKSON** had a question for the **SPONSOR**. If the data comes and proves what is suspected, kids are promoted that can't read, what will be the next step? The **SPONSOR** said he thinks that in most instances, parents will correct the problem. If the child is not reading up to his grade level, the parent will be disappointed in the school system and request changes. Schools will make an effort to meet the needs.

**REPRESENTATIVE MASOLO** said to the **SPONSOR** that she read the book he has been referring to, a couple of years ago. She doesn't disagree with the book or him, because any reading program is going to be a success when you have the parents participating like the Kennewick did. She thinks what we need to do is help the college students who are going to be teachers in elementary education. They are lacking in phonics. One has to use everything he can get his hands on to teach reading. She doesn't know what the **SPONSOR** was going to do for the disabled children, because federal funding is being talked about. She would like to see federal funding fund special education. We have a serious problem in Montana with more of our money going to special education. She believes the stress should be to take some of the funding and help special education and teachers. How is the bill going to cover those students? The **SPONSOR** said his bill is not designed to cover special education. The state contributes \$33,000,000 or more to special education and the districts contribute at least another \$30,000,000 and the federal government contributes about \$20,000,000. He would acknowledge that the federal government has been good initiating program and funding them at 100% for a few years and then the funding becomes the responsibility of the state and local districts.

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He continued saying, politics drive their programs. This bill had broad base, bi-partisan support in the Senate. The opponents were also bi-partisan.

**REPRESENTATIVE NANCY FRITZ** wanted to look at the fiscal note with the **SPONSOR**. The teacher training is to be done by television and that is on how to score the tests and the cost is \$5,000? The **SPONSOR** said that is the information he received from OPI. The schools he called in the state are grading their own tests. **REPRESENTATIVE FRITZ** asked if the materials for the test would come from the Riverside Publishing Co at a cost of \$10,000 for the state. The **SPONSOR** said that was the suggestion from OPI when they did the fiscal note. **REPRESENTATIVE FRITZ** said, as she understands the program, there is a diagnostic test at the beginning of the year and there is a criterion-referenced test at the end of the year. **Ms. Granbery** said that in the bill this is just a one-time 3<sup>rd</sup> grade criterion reference test in reading. She does not believe the test would be from the Riverside Publishing Co. There are a number of companies that the **SPONSOR** looked at examples from, one is from Waterford Co., which did work on test items for the state of Idaho at about \$1 per student. **REPRESENTATIVE FRITZ** said if this is a criterion reference test that is given at the end of the year, it either has to be based on the performance of the child at the beginning



of the year or the materials that the child is using during the year. **Ms. Granbery** said that by definition of criterion reference test measures the ability to answer correctly on the criteria or criterion reference material. **REPRESENTATIVE FRITZ** asked if the criterion reference tests would be based upon the materials, not upon the student's performance in a diagnostic test. **Ms. Granbery** said that is true. **REPRESENTATIVE FRITZ** said the information is suggesting that all of Montana would have to convert or adopt the same series. **Ms. Granbery** said what the Representative is saying is accurate in that the match needs to be there. The state has standards and benchmarks, but might need further articulation of what are the skills that the student is going to be tested on at that grade level.

**REPRESENTATIVE OLSON** had a question for **Ms. Granbery**. He asked her if she did the fiscal note for OPI. **Ms. Granbery** said she did not do the fiscal note, but had received the revised fiscal note. He then referred his question to **Ms. Quinlan**. He questioned her about lines 27 - 29 on page 4. The first fiscal note says there are about 44,000 3<sup>rd</sup> grade students in the state and the state will reimburse the districts \$1 per test. On the back of the fiscal note it says the districts will receive \$11,000. **Ms. Quinlan** said there are 44,000 kindergarten through 3<sup>rd</sup> graders. There are roughly 11,000 students in each of those grades. The reimbursement in the bill is only to districts for the 3<sup>rd</sup> grade test. The assumption in the bill is that school districts would have to absorb the cost of the kindergarten through 2<sup>nd</sup> grade tests. **REPRESENTATIVE OLSON** asked if those other tests are mentioned in the bill. **Ms. Quinlan** said the bill talks about classroom based assessment in kindergarten through second grade. It doesn't require reporting. **REPRESENTATIVE OLSON** asked if the kindergarten through 2<sup>nd</sup> grade tests are expected to cost \$1 each. **Ms. Quinlan** said that is what the people in Idaho told OPI. **REPRESENTATIVE OLSON** said in the fiscal note it talks about the need for a reading specialist in the office of OPI. How many reading specialists are in OPI? **Ms. Quinlan** said they do not have anyone in the office that is designated as a reading specialist. They have one person and a volunteer who work in the area that has a focus on reading. They do not have any curriculum specialist in reading. **REPRESENTATIVE OLSON** asked if there is anyway that OPI could handle the program without the extra person. **Ms. Quinlan** said that OPI could absorb some of the requirements of the bill, but at this point the bill talks about encouraging schools to develop a program of instructional approaches tailored to different learning styles. One can read a lot into the requirement or a little bit into the requirement. To do it well, it would require a reading specialist.

**REPRESENTATIVE MASOLO** asked **Ms. Granbery** what her official title is at OPI. **Ms. Granbery** said her title is Division Administrator for the Division of Educational Opportunity and Equity. She also serves as the state Title 1 Director.

**Closing by Sponsor:**

**SENATOR ELLIS** said the state spends more than a billion dollars a year in K-12 education. For students starting today, by the time they graduate from high school, the state will have spent over \$82,000 for each one. Even with all the costs listed in the bill, it is money well spent. Education is the most basic of basic civil rights and it is a tragedy that some of the kids slip through the cracks and the bill can make a significant difference.

**HEARING ON SB 436**

**Sponsor:** **SENATOR ALVIN ELLIS, JR., SD 12, Red Lodge**

**Proponents:** **Lance Melton, MSBA**  
**Dave Puyear, MREA**  
**Loran Frazier, SAM**  
**Erik Burke, MEA-MFT**

**Opponents:** **Kathy Faiano, OPI**

**Opening Statement by Sponsor:**

**SENATOR ALVIN ELLIS, JR., SD 12, Red Lodge**, said this is a bill that allows school districts more flexibility in moving funds from one voted fund to another voted fund or from one non-voted fund to another non-voted fund. There are significant amendments because this bill really amends only one section of law and contradicts a number of other sections. **EXHIBIT (edh58a03)**  
**EXHIBIT (edh58a04)**

**Proponents' Testimony:**

**Lance Melton, MSBA**, said there are twenty-three different funds that a school district has to offer under. None of them are budgeted and the rest are non-budgeted. School districts can't transfer money from fund to fund. School district would be hard pressed to get more money to the classroom than is already there. It would be legislatively prohibited. For people who are interested in getting more money to the classroom, they have taken a measured step in the direction of allowing it to happen. You can't say that money can be transferred out of the general fund. Why? After you give money to public education each

session, you get \$20 million back each session in fund balance re-appropriated. That is money that goes back into the general fund even though it has been accounted for being given to schools, that schools either have to spend stupidly or give it back to the state of Montana. Every session they choose to give \$20 million back. It is not in the bill, but he would like it to be. What the bill has is some measured steps in the direction of allowing school districts to find better ways to spend the money more efficiently. In Section 2, it turns the whole thing on its head. The law says unless a district can find a specific code that says it can, it can't transfer money from fund to fund. This bill says that unless it is otherwise restricted by a provision in this title, a district should be able to transfer money from fund to fund and it should be able to do so from a budgeted fund to another budgeted fund, when the trustees determine that the transfer of funds is necessary to improve efficiency spending in the district. When the action of the trustees ends up saving money in one fund that could be better put to use elsewhere, it should be allowed to do so. They shouldn't have to leave money on the table when they had a good use for it. There are safeguards in the bill. It says, "Transfers may not be made with funds approved by the voters or with funds raised by a non-voted levy unless the transfer is within the purposes for which the funds were raised." The bill addresses the issue of bus depreciation and transportation levy. Both are about getting kids to and from school on equipment owned by the district equipment they lease under contract. School districts ought to be able to use those two funds interchangeably.

**Dave Puyear, MREA**, said as a teacher and administrator in Montana for the past 20 years, he believes the bill fits under the heading of perception verses reality. Montana has a huge problem about the perception of the communities and the money that they have in the budgets and the dollars that are available to them and the reality of how those dollars can be spent. There can be money in one fund and the local community thinks it can be spent wherever it is needed. The extra money in one fund might be spent on something that is not a priority when real priorities do exist in another area. Montana's funding system in mean to administrators. It is amazing how restrictive Montana is with funds compared to other state.

**Loran Frazier, SAM**, said his organization believes it is a good bill. It will give districts a chance to try transferring funds and if they go wrong the legislature can always put the restrictions back in the system.

**Erik Burke, MEA-MFT**, said they are in support of the bill.

**Opponents' Testimony:**

**Kathy Fabiano, OPI,** said the bill is intended to provide districts more flexibility in the management of district funds and OPI supports that goal. What they oppose about the bill is the method that it uses to provide the flexibility; that is by allowing districts to transfer budget authority and cash between different funds of the district. Any attempt to provide any increase in financial flexibility needs to be carefully balanced with the district's need to be accountable to its taxpayers. A significant portion of a school district's financial resources is obtained through involuntary transactions in the form of taxes collected at both the state and local levels. A high degree of accountability is attached. Governments, including school districts, maintain separate account abilities over those monies that they collect by using separate funds. Montana school districts are required by law to use up to nine separate budgeted funds and sixteen non-budgeted funds. The fund concept of accounting is fundamental to the business of government. Section 1 of the bill amends current law to allow districts to transfer budget authority between funds. That section is talking about transferring budget between funds, not cash. A school district budget setting process is required to be a very public one. It requires published notices and hearings that are held over an extended period of time and they receive public comments on the budget. The bill undermines that public process. It allows the board, after the public has gone home, to take budget authority that was adopted and approved for one purpose and transfer it to another fund and use it for an entirely different purpose. The amendments in Section 1 are unnecessary. Current law allows the trustees to adopt a budget amendment whenever they need additional budgeted authority in a fund. Adopting a budget amendment rather than transferring budget authority from another fund is certainly the preferred way to increase the fund's budget. Like the original budget, the law requires that it be a public process. With a fund transfer, they don't go through the public process. Section 2 of the bill generally allows districts to transfer cash between funds. Cash can be transferred from one budgeted fund to another budgeted fund under the bill and from a non-budgeted fund to a non-budgeted fund and that is why she separated the funds on the handout. The law requires districts to use separate funds to account for monies that were collected for a specific purpose. If the legislature wants to provide districts more flexibility in how those funds can be used, the proper way to do that is get rid of some of those funds. Section 3 of the gray bill allows districts to transfer cash from the bus depreciation reserve fund to the transportation fund. The section conflicts with the restriction in Section 2 that says monies raised by ballot-voted levy can't be transferred to another fund unless the transfer is within the purpose for which

the funds were raised. Taxes are levied in the bus depreciation fund for the purpose of renovating or replacing a district's buses, both yellow buses and extracurricular buses. If those taxes are transferred to a district's transportation fund, they won't be used there to replace a bus, rather they will be used for the district's transportation program, the business of transporting kids to and from school. It will be spent on gas, tires, insurance or to pay the bus driver. Buying the bus is not the same purpose as paying the mentioned costs. Keep in mind that the law allows districts to maintain a cash reserve in their transportation fund for shortfalls and pay unanticipated expenses. The reserve can be as much as 20% of the next year's budget for the transportation fund. Over half of the districts have that full reserve in their transportation fund. Seventy-five percent of the districts have a reserve in that fund of 10% or greater. Section 4 of the gray bill strikes language that governs the disposition of cash and other account balances in a fund that is obsolete. This language is needed even if the flexibility afforded to districts by this bill is approved because without it there will be obsolete funds with account balances that can't legally be transferred anywhere else. If the bill is moved forward, OPI asks that the committee restore Section 4 of the gray bill. Section 5 of the bill allows districts to transfer cash from the debt service fund to one of three other funds. Like Section 3, this is in conflict with Section 2. Taxes in the debt service fund are levied to pay bond, principle and interest on the district's bond. Section 5 would allow those taxes to be transferred to the building fund and used to build buildings, buy land or equipment. That is not the same as paying principle and interest on a bond. She referred the committee to the quote on the bottom of the handout, she presented. To her, what it says is, if you want to give districts more flexibility in the handling of their money, the way to do it is to eliminate some of the 25 separate funds that districts are currently required to use. OPI has worked very hard, as have the schools, to implement generally accepted accounting and financial reporting practices. They are at the point where they can be confident that when they give the legislature numbers, they are giving good number for the legislature to base their decisions on. The transfers that would be possible under this bill will destroy their ability to say to the legislature, "We know where that dollar came from and we know what it was used for." **HB 625** calls for an interim study of school finance and if that bill passes the question of whether districts are currently required to use too many funds with too many restrictions is one that OPI will ask them to consider. Give them the time that it takes to do this right and give the bill a do not pass recommendation.

**Questions from Committee Members and Responses:**

**REPRESENTATIVE LEHMAN** said he would have a problem with one area that **Ms. Fabiano** mentioned. He said the bus depreciation reserve fund is a voted levy and the transportation budget is not.

**Mr. Melton** said both of those are voted levies, for the first time as of last session. **REPRESENTATIVE LEHMAN** asked if the transportation budget is based on monies received from the state and the county. **Mr. Melton** said the transportation budget is set according to the weighted ridership on the buses for those kids three miles or further from the school. It is funded through a combination of state, county and school district funds. School district funds which are mandated to be put to that task, but are subject to a vote. **REPRESENTATIVE LEHMAN** asked if only a portion of the transportation budget would be voted monies. **Mr. Melton** said that is correct. **REPRESENTATIVE LEHMAN** asked if it is based on a one-third, one-third, one-third match. **Mr. Melton** said he was not sure on that match. He deferred to **Ms. Fabiano**. The Representative said the percentage didn't matter. Could the portion which is not voted be played around with? **Mr. Melton** said the Representative was addressing the state and county money and that is true only to the extent that the money was put to the same purpose for which it was originally raised. In this case that is transportation. OPI is doing to the same thing on this at present under existing law by taking and combining the two levies for those two funds and saying that a school district can go like this and that as long as it stays in total within the range. If the district has 30 mills right now, 15 in the transportation fund and 15 in the bus depreciation reserve fund, OPI says that you can go 30 in bus depreciation and 0 in transportation one year and the next year go 30 in transportation and 0 in bus depreciation.

**REPRESENTATIVE JACKSON** asked the **SPONSOR** if he sees any unintended consequences in passing the bill, if the districts receive this flexibility. The **SPONSOR** said he general he does not. He has not spent a lot of time on the amendments. He thought they were going to be a bit different than they are. He has a little concern with Section 1 changing the budget authority, however, if it is restricted by subsection 2a(i) with funds raised by a non-mill levy, and once the transfer is within the purposes for which the funds were originally raised. If that restriction applies to all of those, then he doesn't have a great deal of problem with it. Transportation funds and teacher retirement funds were not subject to vote until passage of **SB 184** last session and there is a bill in the process to take that out of statute because the state mandates that a certain amount has to be spent and then we require people to vote if the levy increases to cover the costs, which isn't appropriate.

**REPRESENTATIVE JACKSON** said he would like the **SPONSOR** to respond to the suggestion made by **Ms. Fabiano** that perhaps this could wait until a study is done. Do you feel this needs to be done now? The **SPONSOR** said he would like an opportunity to go over the amendments. He agrees with her about Section 4. He doesn't see a lot of mischief in the bill, but school administrators are good at finding ways around the rules.

**REPRESENTATIVE LEHMAN** asked **Ms. Fabiano** how OPI funded. Does OPI request a major amount of money and then the departments set up funds within or is it up to the State Superintendent of Public Instruction? Is the OPI subject to the same kind of restrictions as school districts are? **Ms. Fabiano** said that the money that OPI distributes to schools is what they call line item appropriation. They get many separate appropriations especially in the area of money that goes to schools. If she has money left over in her transportation appropriations, she can't use it to give school districts more special education funds. Her funds are restricted. If he is talking about fund transfers, state agencies cannot transfer money between funds unless the legislature specifically appropriates money for that purpose.

**REPRESENTATIVE LEHMAN** asked if she labors under the same restraints that school districts do. **Ms. Fabiano** said yes.

**REPRESENTATIVE ANDERSEN** asked the **SPONSOR** what would be the effective date if this bill was to pass? The **SPONSOR** said it is not referred to in a section so it would be effective on July 1.

**Closing by Sponsor:**

**SENATOR ELLIS** asked the committee to look at the back of his handout. He believes it is deplorable that of all the expenditures in a school district, Montana only gives 31.6% to teachers salaries. Only Idaho and Washington, which are much more affluent states, are below Montana in that category. His bill doesn't make a major inroad in that area, but it does give more authority to school boards to spend the money where they believe it would be wiser to spend it. The bill addresses the problems that all the districts have.

**ADJOURNMENT**

Adjournment: 6:00 P.M.

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REP. GAY ANN MASOLO, Chairman

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NINA ROATCH, Secretary

GM/NR

**EXHIBIT (edh58aad)**